

In the Matter of )  
 )  
Revision of the Commission's Rules ) CC Docket No. 94-102  
To Ensure Compatibility With )  
Enhanced 911 Emergency Calling )  
Systems )

**AMENDED REQUEST FOR TEMPORARY STAY**

## I) Background

1. First Cellular is the licensee of Cellular Radiotelephone

Service Stations KNKN506 and KNKN820, the Frequency Block B cellular systems serving the Illinois 8 - Washington and Illinois 9 - Clay Rural Service Areas ("RSAs"), respectively. First Cellular is a small cellular carrier serving a 24-county area in the southern portion of the State of Illinois.<sup>1 2</sup>

2. In its E-911 implementation report filed with the Commission on November 9, 2000, First Cellular stated its intent to deploy a network-based Phase II E-911 ALI solution; and that it had begun preliminary discussions with several prospective equipment manufacturers, but that no firm decisions had been made concerning selection of a vendor. Because of First Cellular's desire to obtain the best available Phase II ALI solution under the most favorable terms, final vendor selection will not be made until a comparatively large number of vendors are in a position to submit firm proposals for evaluation. Consistent with Commission policy, First Cellular reserves the right to change or amend its chosen Phase II E-911 ALI solution as conditions warrant following full consideration of all available ALI solutions and other applicable factors in existence at the time a final selection is made. These factors include (but are not necessarily limited to) cost, reliability, compatibility with the PSAPs' E-911 system

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<sup>1</sup> The Illinois 8 - Washington RSA consists of Washington, Jefferson, Randolph, Perry, Franklin, Jackson, Williamson, Union, Johnson, Alexander, Pulaski and Massac Counties.

<sup>2</sup> The Illinois 9 - Clay RSA consists of Clay, Richland, Lawrence, Wayne, Edwards, Wabash, Hamilton, White, Saline, Gallatin, Pope and Hardin Counties.

architecture, compatibility with First Cellular's Motorola cellular system equipment, the availability of vendor supplied turn-key installation services, the strength of ongoing performance warranties, and the availability of appropriate contractual assurances (such as indemnification and hold harmless provisions for third party claims). First Cellular will notify the Commission through the filing of a revised report in the event it modifies its Phase II implementation plan. First Cellular employs switching equipment manufactured by Motorola, Inc. It should be emphasized that First Cellular provides E-911 Phase I service throughout its service area, and that it was the first wireless carrier to do so in the First Cellular service area.

3. On February 20, 2002, First Cellular received by e-mail a written request for Phase II E-911 service from the Randolph County, Illinois 911 Coordinator acting on behalf of the Randolph County PSAP. While the request is rather vague and does not specifically set forth a date certain by which the requested Phase II service is to be initiated, reading the request broadly and in conjunction with Section 20.18(f) of the Rules would suggest a service initiation date of August 20, 2002. A copy of the request is appended hereto as Attachment A.<sup>3</sup> First Cellular has received no other requests for Phase II E-911 service. In addition, as a rural Tier III non-nationwide CMRS carrier and given the layout of

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<sup>3</sup> The e-mail was sent to Mike Jaksich, First Cellular's Vice President Network Operations, at 11:35 a.m. on Wednesday, February 20, 2002. However, the text of the e-mail (which is in letter form) is misdated February 20, 2001.

First Cellular's cellular systems, the Commission's accuracy requirements would be extremely difficult (if not impossible) to achieve with Phase II service provided to only one PSAP. In discussions held with the PSAP coordinators in its service area, First Cellular has been advised that approximately 50% of the PSAPs believe that they will not be ready to receive Phase II service until the late third quarter, or the fourth quarter, of 2003. Given the layout of the cellular systems, a more efficient and reliable E-911 Phase II solution can be implemented for multiple PSAPs simultaneously than for just one PSAP.

**II) Commitment to Achieving Compliance**

4. Since the filing of its E-911 deployment report in November of 2000, First Cellular has been diligent in pursuing deployment of E-911 Phase II technology in a timely manner. Indeed, Phase I E-911 service has been deployed throughout First Cellular's service area. However, as noted by the Commission in the Stay Order, non-nationwide wireless carriers (such as First Cellular) "have much less ability than nationwide CMRS carriers to obtain the specific vendor commitments necessary to deploy E911 immediately;"<sup>4</sup> and that "handset vendors and network-based location technology vendors give priority to the larger, nationwide carriers."<sup>5</sup> Therefore, despite its best efforts and due to circumstances beyond its ability to control, First Cellular recognizes generally that it will not be able to meet the phase-

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<sup>4</sup> Stay Order, Para. 10.

<sup>5</sup> Stay Order, Para. 11.

in schedule for network-based ALI technology established in the Commission's Fourth Memorandum Opinion and Order, 15 FCC Rcd. 17442 (2000) and embodied in Section 20.18(f) of the Rules; and further recognizes specifically that it cannot provide Phase II E-911 service to the Randolph County PSAP by August 20, 2002.

**III) Temporary Stay Request**

5. Accordingly, First Cellular requests a temporary stay of Section 20.18(f) of the Rules to allow it to delay the provision of Phase II E-911 enhanced service, until such time as the necessary E-911 Phase II ALI equipment is available and can be installed. Specifically, consistent with the revised schedule for Tier III carriers set forth in the Stay Order, First Cellular requests a temporary stay until September 1, 2003 or the date occurring six-months following receipt of a valid PSAP request, whichever is later.

**IV) Waiver Standards**

6. In its Fourth Memorandum Opinion and Order, 15 FCC Rcd. 17442 (2000), the Commission indicated that the Phase II rules are intended to be applied in a manner that takes into account the practical and technical realities.<sup>6</sup> Recognizing that practical and technical realities might delay Phase II implementation, the Commission established a general approach to dealing with possible requests for waiver of the Phase II requirements.<sup>7</sup> Thus, the Commission provided that its rules may be waived for good cause

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<sup>6</sup> 15 FCC Rcd. 17442 at Para. 22.

<sup>7</sup> Id. at Paras. 42-45.

shown, consistent with Section 1.3 of the Rules.<sup>8</sup> It recognized, in the case of E-911, that there could be instances where technology-related issues or exceptional circumstances may mean that deployment of phase II may not be possible by the deadlines established in Sections 20.18(f) and (g) of the Rules.<sup>9</sup> The Commission cautioned that waiver requests should be specific, focused and limited in scope, with a clear path to full compliance and should document the efforts aimed at compliance.<sup>10</sup> In the Stay Order, the Commission temporarily stayed Sections 20.18(f) and (g) of the Rules in lieu of granting waivers, although the showings of the various petitioners were made under the waiver standard.

**V) First Cellular Has Met The Waiver Standards**

7. As shown above, First Cellular has met the Commission's standards for obtaining the requested temporary stay of Section 20.18(f) of the Commission's Rules. While Section 20.18 of the Rules imposes E-911 Phase II obligations only on Commission licensees (by reason of limitations on the Commission's statutory authority), the Commission has repeatedly acknowledged the obvious, i.e., that achieving full compliance requires the cooperative efforts of carriers, equipment manufacturers and suppliers, and government officials responsible for public safety activities. As a service provider only, First Cellular will be unable to achieve compliance with the Commission's Phase II E-911 requirements

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<sup>8</sup> Id.

<sup>9</sup> Id.

<sup>10</sup> Id.

without the availability of necessary equipment; and, as a small carrier, First Cellular lacks the economic leverage to influence the decisions of equipment manufacturers, a fact acknowledged by the Commission in the Stay Order as applicable to all Tier II and Tier III non-nationwide CMRS carriers. The simple truth is that there is no technology currently available commercially to small, non-nationwide CMRS carriers (such as First Cellular) that will satisfy the Commission's Phase II requirements within the deadlines specified in Section 20.18(f) of the Rules. It is only recently that ALI technology has advanced to the point where Phase II compliance can become a reality. However, once compliant equipment is available in the marketplace to non-nationwide CMRS carriers, it will undoubtedly be several more months before First Cellular will be able to obtain delivery of this equipment.

8. Grant of the request for a temporary stay contained herein is in the public interest. First Cellular has been diligent in pursuing implementation of Phase II but is unable to do so entirely because of matters that are beyond its ability to control. The instant request for a temporary stay is specific and focused. It notes the unavoidable delays that First Cellular has encountered through no fault of its own. It sets out a clear path to compliance once the necessary equipment becomes available.

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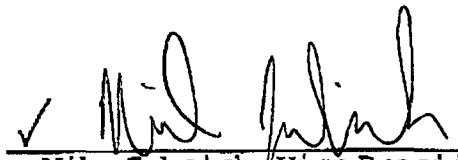
WHEREFORE, good cause shown, First Cellular requests that the requested temporary stay be granted.

Respectfully submitted,  
Southern Illinois RSA  
Partnership d/b/a First  
Cellular of Southern Illinois

King City Square  
417 South 42nd Street  
Mt. Vernon, IL 62864  
Tel.: 618-244-2355

Dated: ✓ 9-3-02

By: ✓

  
Mike Jaksich, Vice President  
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-----Original Message-----

From: cindy wagner [mailto:cindywagner67@hotmail.com]

Sent: Wednesday, February 20, 2002 11:35 AM

To: mjaksich

Subject: PHASE 11 Service

February 20, 2001

Randolph County 911 Administrative Office  
1 Taylor Street Room 103  
Chester, IL. 62233

First Cellular of Southern Illinois  
ATTN: MILE JAKSICH

RE: PHASE 11 Wireless Service

Dear Wireless Carrier:

As the coordinator of 9-1-1 service of Randolph County, Illinois, I am pleased to issue this formal request for Phase 11 Wireless E-911 service. This request is being made as outlined in the Federal Communications Commission (FCC) E9-1-1 Report and Order, Number 94-102 and HB 1383 as passed by the 91st General Assembly of the State of Illinois.

I look forward to working with your company to improve the quality of wireless E9-1-1 services for your customers and the citizens of this county.

My hope is that we can maintain a productive and positive working relationship to work together to improve the quality, reliability and effectiveness of wireless E9-1-1 service.

Thank You,

Cindy Wagner  
Randolph County 911 Coordinator

CC/ Illinois Commerce Commission  
Russ Russell/TSI

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